

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MICHIGAN

COPY

UNITED STATES OF AMERICA,

Plaintiff,

v.

STATE OF MICHIGAN AND  
CANDICE C. MILLER, SECRETARY OF  
STATE OF THE STATE OF MICHIGAN,

Defendants.

CIVIL ACTION NO.

1:00CV583

COMPLAINT

Wendell A. Miles  
Senior, U.S. District Judge

The United States of America, plaintiff herein, alleges  
that:

1. This action is brought by the Attorney General on behalf  
of the United States pursuant to the Uniformed and Overseas  
Citizens Absentee Voting Act, 42 U.S.C. 1973ff to 1973ff-6.

2. This Court has jurisdiction of this action pursuant to  
42 U.S.C. 1973ff-4 and 28 U.S.C. 1345.

3. The Defendant State of Michigan is charged with the  
responsibility of assuring that Michigan election laws, as  
applied, comply with the provisions of the Uniformed and Overseas  
Citizens Absentee Voting Act, 42 U.S.C. 1973ff to 1973ff-6.

4. The Defendant Candice C. Miller, sued in her official  
capacity as the Secretary of State of the State of Michigan, is  
the chief elections officer of the State and is responsible for  
assuring that elections in the State are conducted in accordance  
with the law. As Secretary of State, she is responsible for  
proclaiming the results of federal elections in the State. The

principal office of the Secretary of State is located in Lansing, Michigan.

5. The Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff-1, provides, in pertinent part, that "[e]ach state shall . . . permit absentee uniformed services voters and overseas voters . . . to vote by absentee ballot in special, primary, and runoff elections for Federal office." 42 U.S.C. 1973ff-1. This action seeks injunctive relief to ensure that United States citizens living abroad, who are qualified to vote in the federal primary election to be held in the State of Michigan August 8, 2000, and who have filed timely applications for absentee ballots, will be given a reasonable opportunity to execute and return such ballots and thus to have their ballots counted.

6. On August 8, 2000, a primary election will be conducted in Michigan. This primary election is part of a process for selecting nominees for several state and federal offices, including United States Senator and Representative in the United States Congress.

7. Election officials of the State of Michigan have received timely requests for absentee ballots from overseas citizens, who are entitled to vote pursuant to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act.

8. Under Michigan law, absentee ballots received after the polls close at eight o'clock p.m. on the date of the election are not counted. Mich. Comp. Laws Ann. § 168.759a (1999).

9. In order to allow overseas citizens a fair opportunity to vote by absentee ballot, election officials in Michigan must mail the ballots to the voters on a date sufficiently in advance of election day to allow the voter to receive the ballot, cast his or her vote, and return the ballot to the office of the appropriate election official by the time the polls close on election day. The United States Postal Service estimates that a period of 10 to 17 days is a reasonable benchmark from the time of posting to the time of delivery of international mail and that a period of 20 to 34 days is a reasonable benchmark for a round trip if the addressee responds on the day he or she receives the letter. The United States Department of State has estimated that 10 to 14 days is a reasonable one-way international benchmark. The Military Postal Service Agency estimates that at least 30 days are necessary for mail to military personnel to make a complete round trip to and from overseas locales. This estimate takes into account the fact that some military personnel are stationed in remote areas. The Federal Voting Assistance Program of the Department of Defense recommends that states allow 40 to 45 days for round trip mailing time for overseas ballots.

10. Election officials in a number of counties did not mail absentee ballots to military and civilian overseas voters on a date sufficiently in advance of August 8, 2000, in light of the estimates of the time it takes for mail to make a complete round trip to and from an overseas locate, to allow such voters to receive the ballot, cast a vote, and return the ballot to

election officials by the time the polls close on August 8, 2000. These election officials mailed the absentee ballots sometime between July 9 and July 15, 2000.

11. The failure of county election authorities in Michigan to mail absentee ballots to military and civilian overseas voters on a date sufficiently in advance of August 8, 2000, so as to allow the voting and return of ballots by the deadline established by state law, may deprive United States citizens of an opportunity to vote in the August 8, 2000 federal primary election contrary to the provisions of the Uniformed and Overseas Citizens Absentee Voting Act.

12. Extending the deadline for acceptance of ballots by ten days, from 8 o'clock p.m. on August 8, 2000 to 8 o'clock p.m. on August 18, 2000, will afford uniformed overseas service personnel who are Michigan residents the opportunity to return their ballots in a timely fashion and have their votes counted in the August 8, 2000 federal primary election.

13. An order of this Court is necessary requiring election officials of the State of Michigan to take corrective action in order to protect the rights granted by the Uniformed and Overseas Citizens Absentee Voting Act.

WHEREFORE, Plaintiff United States of America prays that this Court hear this action pursuant to 42 U.S.C. 1973ff-4 and 28 U.S.C. 1345, and thereafter issue a judgment enjoining the

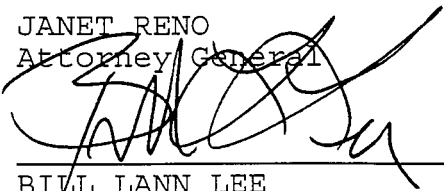
defendants, their agents and successors in office, and all persons acting in concert with them:

- (1) to take such steps as are necessary to ensure that persons outside the United States who are qualified to vote in the State of Michigan pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff-1, and who satisfy the requirements of Michigan law for voting in the August 8, 2000 federal primary election are able to cast ballots in this election despite the late mailing of ballots to those voters by county election officials;
- (2) to take such steps as are necessary to afford military and civilian overseas voters eligible to participate in the August 8, 2000 federal primary election a reasonable opportunity to learn of this Court's order; and
- (3) to extend the deadline for accepting ballots for the August 8, 2000 federal primary election until August 18, 2000.


The United States of America further prays that this Court  
order such other relief as the interests of justice may require.

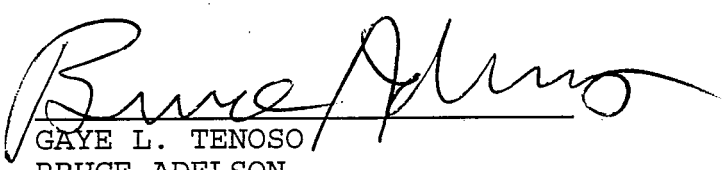
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